

# **EXHIBIT B**

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LEGISLATURE OF NEBRASKA  
NINETY-SEVENTH LEGISLATURE  
SECOND SESSION  
**LEGISLATIVE BILL 1278**  
FINAL READING

Introduced by Brashear, 4; Dierks, 40; D. Pederson, 42

Read first time January 23, 2002

Committee: Judiciary

A BILL

1 FOR AN ACT relating to monopolies and unlawful combinations; to  
2 amend sections 59-806, 59-808 to 59-810, 59-812, 59-815,  
3 59-816, 59-819 to 59-822, 59-824, 59-826 to 59-831,  
4 59-1606 to 59-1611, 59-1614 to 59-1616, 59-1623, and  
5 68-1035, Reissue Revised Statutes of Nebraska, section  
6 59-823, Revised Statutes Supplement, 2000, and section  
7 59-1803, Revised Statutes Supplement, 2001; to provide  
8 for illegal overcharge or undercharge actions as  
9 prescribed; to authorize indirect damages in certain  
10 antitrust actions; to harmonize provisions; and to repeal  
11 the original sections.  
12 Be it enacted by the people of the State of Nebraska,

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1           Section 1.   Section 59-806, Reissue Revised Statutes of  
2   Nebraska, is amended to read:

3           59-806.   No corporation, joint-stock company, limited  
4   liability company, or other association shall engage in business  
5   within this state, a majority of whose stock is owned by or  
6   controlled or held in trust for any manufacturing or other  
7   corporation, which, in the course of its manufacture or production,  
8   conducts its business, or any part thereof, in a manner which would  
9   be prohibited by sections 59-801 to ~~59-828~~ 59-831 and section 11 of  
10   this act if it were so conducted in the course of such business  
11   within this state.

12           Sec. 2.   Section 59-808, Reissue Revised Statutes of  
13   Nebraska, is amended to read:

14           59-808.   Any president, director, treasurer, officer,  
15   corporator, partner, member, associate, or agent of such  
16   corporation, joint-stock company, limited liability company, or  
17   other association who does in its behalf anything prohibited by  
18   sections 59-801 to ~~59-828~~ 59-831 and section 11 of this act or who  
19   supports, votes for, aids and abets, or takes part in doing such  
20   action by the corporation, joint-stock company, limited liability  
21   company, or other association, or any instrumentality thereof,  
22   shall be liable to the penalties by law provided.

23           Sec. 3.   Section 59-809, Reissue Revised Statutes of  
24   Nebraska, is amended to read:

25           59-809.   No corporation, joint-stock company, limited  
26   liability company, or other association which manufactures or  
27   produces any article for sale or transportation within this state  
28   and which does any of the acts or things prohibited to be done by

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1 sections 59-801 to ~~59-828~~ 59-831 and section 11 of this act shall  
 2 engage in business within this state.

3 Sec. 4. Section 59-810, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:

5 59-810. Any corporation, joint-stock company, limited  
 6 liability company, or other association which has been once  
 7 adjudged to have violated the provisions of sections 59-801 to  
 8 ~~59-828~~ 59-831 and section 11 of this act by the final judgment of  
 9 any court having jurisdiction of the question in any civil suit or  
 10 proceeding in which such corporation, joint-stock company, limited  
 11 liability company, or other association was a party, which  
 12 thereafter violates any of such sections or which fails to make the  
 13 returns herein required at the times specified shall no longer be  
 14 allowed to engage in business within this state. Such prohibition  
 15 shall only be enforced after such corporation, joint-stock company,  
 16 limited liability company, or other association has been enjoined  
 17 against further engaging in such business on an information or suit  
 18 brought in a court of competent jurisdiction by the Attorney  
 19 General in behalf of this state.

20 Sec. 5. Section 59-812, Reissue Revised Statutes of  
 21 Nebraska, is amended to read:

22 59-812. Any corporation, joint-stock company, limited  
 23 liability company, or other association which is charged with  
 24 violating ~~any of the provisions of~~ sections 59-801 to ~~59-828~~ 59-831  
 25 and section 11 of this act and any president, director, treasurer,  
 26 officer, limited liability company member, or agent thereof may be  
 27 joined as a party in any proceeding, civil or criminal, to enforce  
 28 such sections.

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1                   Sec. 6.     Section 59-815, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   59-815.   Any corporation, joint-stock company, limited  
4 liability company, or other association, and any president,  
5 director, treasurer, officer, corporator, partner, member,  
6 associate, or agent thereof who in its behalf engages in such  
7 business in violation of sections 59-801 to ~~59-828~~ 59-831 and  
8 section 11 of this act shall for each offense, in addition to such  
9 penalty for contempt as the court in case of disobedience to its  
10 lawful order may impose, be guilty of a Class IV felony.

11                  Sec. 7.   Section 59-816, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13                  59-816.   Every president, treasurer, general manager,  
14 agent, or other person usually exercising the powers of such  
15 officers of any corporation, joint-stock company, limited liability  
16 company, or other association who has himself or herself, in its  
17 behalf, violated, united to violate, or voted for or consented to  
18 the violation of ~~any of the provisions of~~ sections 59-801 to ~~59-828~~  
19 59-831 and section 11 of this act shall thereafter be personally  
20 liable for all the debts and obligations of any such corporation,  
21 joint-stock company, limited liability company, or other  
22 association created while such person holds such office or agency,  
23 whether under the same or subsequent elections or appointments.

24                  Sec. 8.   Section 59-819, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26                  59-819.   The several courts of record of this state  
27 having equity jurisdiction are hereby invested with jurisdiction to  
28 prevent and restrain all violations of sections 59-801 to ~~59-828~~

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1 59-831 and section 11 of this act and especially the offering,  
 2 granting, giving, soliciting, accepting, or receiving any such  
 3 rebate, concession, or service by any person or persons and to  
 4 prevent or restrain any such joint-stock company, corporation,  
 5 limited liability company, association, or combination which has  
 6 solicited, accepted, or received any such rebate, concession, or  
 7 service or which has offered, granted, or given any special prices,  
 8 inducements, or advantages in order to restrict or destroy  
 9 competition in particular localities from engaging in commerce  
 10 within this state. Such proceedings may be by way of complaint  
 11 setting forth the cause of action and praying that the acts hereby  
 12 made unlawful shall be enjoined or otherwise prohibited. When the  
 13 parties complained of are duly notified of such complaint, the  
 14 court shall proceed as soon as may be to the hearing and  
 15 determination of the case, and upon such complaint and before final  
 16 decree the court may at any time make such temporary restraining  
 17 order or prohibition as shall be deemed just. The court may retain  
 18 jurisdiction of the ~~cause~~ case after the decree for the purpose of  
 19 such subsequent modification of the same as may be made to appear  
 20 equitable and just in the premises.

21 Sec. 9. Section 59-820, Reissue Revised Statutes of  
 22 Nebraska, is amended to read:

23 59-820. Whenever it shall appear to the court before  
 24 which any civil proceeding under sections 59-801 to ~~59-828~~ 59-831  
 25 and section 11 of this act shall be pending that the ends of  
 26 justice require that other parties shall be brought before the  
 27 court, the court may cause them to be summoned whether they reside  
 28 in the county where the court is held or not, and subpoenas to that

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1 end may be served in any county by the sheriff thereof.

2           Sec. 10.     Section 59-821, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           59-821. Any person who ~~shall be~~ is injured in his or her  
5 business or property by any other person or persons, by a violation  
6 of reason of anything forbidden or declared to be unlawful by  
7 sections 59-801 to 59-828 59-831 and section 11 of this act,  
8 whether such injured person dealt directly or indirectly with the  
9 defendant, may bring a civil action in the district court ~~sue~~  
10 ~~therefor in any court of record in this state,~~ in the county in  
11 which the defendant or defendants reside or are found, without  
12 respect to the amount in controversy, and shall recover actual  
13 damages or liquidated damages in an amount which bears a reasonable  
14 relation to the actual damages which have been sustained and which  
15 damages are not susceptible of measurement by ordinary pecuniary  
16 standards and the costs of suit, including a reasonable attorney's  
17 fee.

18           Sec. 11. In an illegal overcharge or undercharge case in  
19 which claims are asserted by both parties who dealt directly with  
20 the defendant and parties who dealt indirectly with the defendant  
21 or any combination thereof:

22           (1) A defendant may prove, as a partial or complete  
23 defense to a claim for damages under sections 59-801 to 59-831 and  
24 this section, that the illegal overcharge or undercharge has been  
25 passed on to others who are themselves entitled to recover so as to  
26 avoid duplication of recovery of such damages; and

27           (2) The court may transfer and consolidate such claims,  
28 apportion damages, and delay disbursement of damages to avoid

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1 multiplicity of suits and duplication of recovery of damages and to  
 2 obtain substantial fairness.

3 Sec. 12. Section 59-822, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:

5 59-822. The words person or persons, as used in sections  
 6 59-801 to ~~59-822~~ 59-831 and section 11 of this act, shall be deemed  
 7 to include all corporations, associations, limited liability  
 8 companies, combinations, or concerns whatsoever.

9 Sec. 13. Section 59-823, Revised Statutes Supplement,  
 10 2000, is amended to read:

11 59-823. When any suit in equity is brought in any court  
 12 under sections 59-801 to ~~59-822~~ 59-831 and section 11 of this act  
 13 in which the state is complainant, the Attorney General may file  
 14 with the clerk of such court a certificate that, in his or her  
 15 opinion, the case is of general public importance, a copy of which  
 16 certificate shall be immediately furnished by such clerk to the  
 17 judge of the court in which the case is pending. Thereupon such  
 18 case shall be given precedence over others and in every way  
 19 expedited and be assigned for hearing at the earliest practicable  
 20 day. An appeal from the final decree of the court shall lie to the  
 21 Court of Appeals and shall be taken within thirty days after the  
 22 entry of such decree or final order or within thirty days after  
 23 entry of the order overruling a motion for a new trial in such  
 24 ~~cause~~ case.

25 Sec. 14. Section 59-824, Reissue Revised Statutes of  
 26 Nebraska, is amended to read:

27 59-824. In all prosecutions, hearings, and proceedings  
 28 under ~~the provisions of~~ sections 59-801 to ~~59-822~~ 59-831 and



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1 section 11 of this act, whether civil or criminal, no person shall  
 2 be excused from attending and testifying, or from producing books,  
 3 papers, contracts, agreements, and documents before the courts of  
 4 this state, or in obedience to the subpoena of the same, on the  
 5 ground or for the reason that the testimony or evidence,  
 6 documentary or otherwise, required of ~~him~~ such person, may tend to  
 7 criminate ~~him~~ such person or subject ~~him~~ such person to a penalty  
 8 or forfeiture.

9           Sec. 15.     Section 59-826, Reissue Revised Statutes of  
 10 Nebraska, is amended to read:

11           59-826. Whoever knowingly swears to a return or report  
 12 required by sections 59-801 to ~~59-828~~ 59-831 and section 11 of this  
 13 act that is false in any material particular, or knowingly swears  
 14 to an answer to any of the requirements of ~~said~~ such sections that  
 15 is false in any material particular, shall be deemed guilty of  
 16 perjury, and punished as provided by the laws of this state in  
 17 reference to perjury.

18           Sec. 16.     Section 59-827, Reissue Revised Statutes of  
 19 Nebraska, is amended to read:

20           59-827. Whoever shall knowingly prepare, or cause to be  
 21 prepared, a report, return, or answer required by sections 59-801  
 22 to ~~59-828~~ 59-831 and section 11 of this act that is false, as  
 23 aforesaid, shall be guilty of subornation of perjury and punished  
 24 by law.

25           Sec. 17.     Section 59-828, Reissue Revised Statutes of  
 26 Nebraska, is amended to read:

27           59-828.     (1) It is hereby made the duty of the Attorney  
 28 General and the county attorney of each county under the direction

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1 of the Attorney General to institute and prosecute such proceedings  
 2 as may be necessary to carry into effect ~~all of the provisions of~~  
 3 sections 59-801 to ~~59-828~~, ~~PROVIDED, no~~ 59-831 and section 11 of  
 4 this act. No person shall be prosecuted or be subjected to any  
 5 penalty or forfeiture for or on account of any transaction, matter,  
 6 or thing concerning which he or she may testify or produce  
 7 evidence, documentary or otherwise, in any proceeding, suit, or  
 8 prosecution under ~~said~~ such sections. ~~No + AND PROVIDED FURTHER,~~  
 9 ~~no~~ person testifying shall be exempt from prosecution or punishment  
 10 for perjury committed in so testifying.

11 (2) It shall be lawful for any person to institute  
 12 proceedings pursuant to ~~the provisions of Chapter 59, article 8~~  
 13 sections 59-801 to 59-831 and section 11 of this act, at his or her  
 14 own expense and by his or her own attorney, but in the action so  
 15 brought by such person no recovery for costs and disbursements  
 16 shall be had against the state.

17 Sec. 18. Section 59-829, Reissue Revised Statutes of  
 18 Nebraska, is amended to read:

19 59-829. When any provision of sections 59-801 to 59-831  
 20 and section 11 of this act ~~59-821, 59-828, 59-829, and sections~~  
 21 ~~84-211 to 84-214~~ or any provision of Chapter 59 is the same as or  
 22 similar to the language of a federal antitrust law, the courts of  
 23 this state in construing such sections ~~59-821, 59-828, 59-829, and~~  
 24 ~~84-211 to 84-214 or any provision of Chapter 59~~ or chapter shall  
 25 follow the construction given to the federal law by the federal  
 26 courts.

27 Sec. 19. Section 59-830, Reissue Revised Statutes of  
 28 Nebraska, is amended to read:

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1           59-830. No criminal action may be maintained under  
 2 ~~Chapter 59~~ sections 59-801 to 59-831 and section 11 of this act  
 3 against any person, corporation, organization, limited liability  
 4 company, or association for acting pursuant to and under the  
 5 authority of any state or federal law. It is the purpose of this  
 6 section to reaffirm that a person may rely on the validity of any  
 7 state or federal law until declared invalid.

8           Sec. 20. Section 59-831, Reissue Revised Statutes of  
 9 Nebraska, is amended to read:

10           59-831. When the Attorney General, on behalf of a state  
 11 agency or political subdivision, is authorized to investigate, file  
 12 suit, or otherwise take action in connection with violations under  
 13 sections 59-801 to ~~59-830~~ 59-831 and section 11 of this act, any  
 14 recovery of damages or costs by judgment, court decree, settlement  
 15 in or out of court, or other final result shall be subject to the  
 16 following:

17           (1) Upon recovery of damages or any monetary payment  
 18 except criminal penalties, the costs, expenses, or billings  
 19 incurred by any state agency or political subdivision in any  
 20 investigation or other action arising out of a violation under  
 21 sections 59-801 to ~~59-830~~ 59-831 and section 11 of this act shall  
 22 be sought out in any judgment, court decree, settlement in or out  
 23 of court, or other final result. Any recovered costs shall be  
 24 deposited by the Attorney General in the fund from which such costs  
 25 were expended; and

26           (2) When the Attorney General makes recovery pursuant to  
 27 sections 59-801 to ~~59-830~~ 59-831 and section 11 of this act on  
 28 behalf of a state agency or political subdivision of any money,

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1 funds, securities, or other things of value in the nature of civil  
 2 damages or other, except criminal penalties, whether such recovery  
 3 shall be by way of verdict, judgment, compromise, or settlement in  
 4 or out of court, or other final disposition of any case or  
 5 controversy, such money, funds, securities, or other things of  
 6 value shall be deposited by the Attorney General in the fund from  
 7 which the funds which are being recovered were expended.

8 Sec. 21. Section 59-1606, Reissue Revised Statutes of  
 9 Nebraska, is amended to read:

10 59-1606. (1) It shall be unlawful for any corporation to  
 11 acquire, directly or indirectly, the whole or any part of the stock  
 12 or assets of another corporation when the effect of such  
 13 acquisition may be to substantially lessen competition or tend to  
 14 create a monopoly in any line of commerce.

15 (2) This section shall not apply to corporations which  
 16 purchase such stock solely for investment and not using the same by  
 17 voting or otherwise to bring about, or in attempting to bring  
 18 about, the substantial lessening of competition; nor shall anything  
 19 contained in this section prevent a corporation from causing the  
 20 formation of subsidiary corporations for the actual carrying on of  
 21 their immediate lawful business, or the natural and legitimate  
 22 branches or extensions thereof, or from owning and holding all or a  
 23 part of the stock of such subsidiary corporations, when the effect  
 24 of such formation is not to substantially lessen competition.

25 (3) In addition to any other remedy provided by ~~sections~~  
 26 ~~59-1601 to 59-1622~~ the Consumer Protection Act, the district court  
 27 may order any corporation to divest itself of the stock or assets  
 28 held contrary to this section, in the manner and within the time

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1 fixed by such order.

2 Sec. 22. Section 59-1607, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 59-1607. The labor of a human being shall not be a  
5 commodity or article of commerce. Nothing contained in ~~sections~~  
6 ~~59-1601 to 59-1622~~ the Consumer Protection Act shall be construed  
7 to forbid the existence and operation of labor, agricultural, or  
8 horticultural organizations, instituted for the purposes of mutual  
9 help, and not having capital stock or conducted for profit, or to  
10 forbid or restrain individual members of such organizations from  
11 lawfully carrying out the legitimate objects thereof.

12 Sec. 23. Section 59-1608, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 59-1608. (1) The Attorney General may bring an action in  
15 the name of the state against any person to restrain and prevent  
16 the doing of any act prohibited by ~~sections 59-1601 to 59-1622~~, and  
17 the Consumer Protection Act. The prevailing party may, in the  
18 discretion of the court, recover the costs of such action including  
19 a reasonable attorney's fee.

20 (2) The court may make such additional orders or  
21 judgments as may be necessary to restore to any person in interest  
22 any money or property, real or personal, which may have been  
23 acquired by means of any act prohibited in ~~sections 59-1601 to~~  
24 ~~59-1622~~ the Consumer Protection Act.

25 Sec. 24. Section 59-1608.01, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 59-1608.01. In the enforcement of ~~sections 59-1601 to~~  
28 ~~59-1622~~ the Consumer Protection Act, the Attorney General may bring

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1 an action in the name of the state in the district court of the  
 2 county in which the alleged violator resides or has his or her  
 3 principal place of business or in Lancaster County.

4 Sec. 25. Section 59-1608.02, Reissue Revised Statutes of  
 5 Nebraska, is amended to read:

6 59-1608.02. When the Attorney General, on behalf of a  
 7 state agency or political subdivision, is authorized to  
 8 investigate, file suit, or otherwise take action in connection with  
 9 violations under ~~sections 59-1601 to 59-1623~~ the Consumer  
 10 Protection Act, any recovery of damages or costs by judgment, court  
 11 decree, settlement in or out of court, or other final result shall  
 12 be subject to the following:

13 (1) Upon recovery of damages or any monetary payment  
 14 except criminal penalties, the costs, expenses, or billings  
 15 incurred by any state agency or political subdivision in any  
 16 investigation or other action arising out of a violation under  
 17 ~~sections 59-1601 to 59-1623~~ the Consumer Protection Act shall be  
 18 sought out in any judgment, court decree, settlement in or out of  
 19 court, or other final result. Any recovered costs shall be  
 20 deposited by the Attorney General in the fund from which such costs  
 21 were expended; and

22 (2) When the Attorney General makes recovery pursuant to  
 23 ~~sections 59-1601 to 59-1623~~ the Consumer Protection Act on behalf  
 24 of a state agency or political subdivision of any money, funds,  
 25 securities, or other things of value in the nature of civil damages  
 26 or other, except criminal penalties, whether such recovery shall be  
 27 by way of verdict, judgment, compromise, or settlement in or out of  
 28 court, or other final disposition of any case or controversy, such

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1 money, funds, securities, or other things of value shall be  
 2 deposited by the Attorney General in the fund from which the funds  
 3 which are being recovered were expended.

4 Sec. 26. Section 59-1609, Reissue Revised Statutes of  
 5 Nebraska, is amended to read:

6 59-1609. Any person who is injured in his or her  
 7 business or property by a violation of sections 59-1602 to 59-1606,  
 8 whether such injured person dealt directly or indirectly with the  
 9 defendant, or any person so injured because he or she refuses to  
 10 accede to a proposal for an arrangement which, if consummated,  
 11 would be in violation of sections 59-1603 to 59-1606, may bring a  
 12 civil action in the district court to enjoin further violations, to  
 13 recover the actual damages sustained by him or her, or both,  
 14 together with the costs of the suit, including a reasonable  
 15 attorney's fee, and the court may in its discretion, increase the  
 16 award of damages to an amount which bears a reasonable relation to  
 17 the actual damages which have been sustained and which damages are  
 18 not susceptible of measurement by ordinary pecuniary standards;  
 19 ~~PROVIDED,~~ except that such increased award for violation of section  
 20 59-1602 shall not exceed one thousand dollars. For the purpose of  
 21 this section, person shall include the counties, the  
 22 municipalities, and all political subdivisions of this state.

23 Whenever the State of Nebraska is injured by reason of a  
 24 violation of sections 59-1603 to 59-1606, it may sue therefor in  
 25 the district court to recover the actual damages sustained by it  
 26 and to recover the costs of the suit including a reasonable  
 27 attorney's fee.

28 Sec. 27. In an illegal overcharge or undercharge case in



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1 which claims are asserted by both parties who dealt directly with  
 2 the defendant and parties who dealt indirectly with the defendant  
 3 or any combination thereof:

4 (1) A defendant may prove, as a partial or complete  
 5 defense to a claim for damages under sections 59-1602 to 59-1606,  
 6 that the illegal overcharge or undercharge has been passed on to  
 7 others who are themselves entitled to recover so as to avoid  
 8 duplication of recovery of such damages; and

9 (2) The court may transfer and consolidate such claims,  
 10 apportion damages, and delay disbursement of damages to avoid  
 11 multiplicity of suits and duplication of recovery of damages and to  
 12 obtain substantial fairness.

13 Sec. 28. Section 59-1610, Reissue Revised Statutes of  
 14 Nebraska, is amended to read:

15 59-1610. In the enforcement of ~~sections 59-1601 to~~  
 16 ~~59-1622~~ the Consumer Protection Act, the Attorney General may  
 17 accept an assurance of discontinuance of any act or practice deemed  
 18 in violation of ~~sections 59-1601 to 59-1622~~ the Consumer Protection  
 19 Act, from any person who engages in, or who has engaged in, such  
 20 act or practice. Any such assurance shall be in writing and be  
 21 filed with and subject to the approval of the district court of the  
 22 county in which the alleged violator resides or has his or her  
 23 principal place of business, or in Lancaster County.

24 Such assurance of discontinuance shall not be considered  
 25 an admission of a violation for any purpose, but proof of failure  
 26 to comply with the assurance of discontinuance shall be prima facie  
 27 evidence of a violation of ~~sections 59-1601 to 59-1622~~ the Consumer  
 28 Protection Act.



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1           Sec. 29. Section 59-1611, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           59-1611. (1) Whenever the Attorney General believes that  
4 any person may be in possession, custody, or control of any  
5 original or copy of any book, record, report, memorandum, paper,  
6 communication, tabulation, map, chart, photograph, mechanical  
7 transcription, or other tangible document or recording, wherever  
8 situated, which he or she believes to be relevant to the subject  
9 matter of an investigation of a possible violation of sections  
10 59-1602 to 59-1606, he the Attorney General may, prior to the  
11 institution of a civil proceeding thereon, execute in writing and  
12 cause to be served upon such a person a civil investigative demand  
13 requiring such person to produce such documentary material and  
14 permit inspection and copying thereof. This ~~PROVIDED, that this~~  
15 section shall not be applicable to criminal prosecutions.

16           (2) Each such demand shall:

17           (a) State the statute and section or sections thereof the  
18 alleged violation of which is under investigation, and the general  
19 subject matter of the investigation;

20           (b) Describe the class or classes of documentary material  
21 to be produced thereunder with reasonable specificity so as fairly  
22 to indicate the material demanded;

23           (c) Prescribe a return date within which the documentary  
24 material shall be produced; and

25           (d) Identify the members of the Attorney General's staff  
26 to whom such documentary material shall be made available for  
27 inspection and copying.

28           (3) No such demand shall:

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1           (a) Contain any requirement which would be unreasonable  
2 or improper if contained in a subpoena duces tecum issued by a  
3 court of this state; or

4           (b) Require the disclosure of any documentary material  
5 which would be privileged, or which for any other reason would not  
6 be required by a subpoena duces tecum issued by a court of this  
7 state.

8           (4) Service of any such demand may be made by:

9           (a) Delivering a duly executed copy thereof to the person  
10 to be served, or, if such person is not a natural person, to any  
11 officer of the person to be served;

12           (b) Delivering a duly executed copy thereof to the  
13 principal place of business in this state of the person to be  
14 served; or

15           (c) Mailing by certified mail a duly executed copy  
16 thereof addressed to the person to be served at the principal place  
17 of business in this state, or, if such person has no place of  
18 business in this state, to his or her principal office or place of  
19 business.

20           (5) Documentary material demanded pursuant to the  
21 provisions of this section shall be produced for inspection and  
22 copying during normal business hours at the principal office or  
23 place of business of the person served, or at such other times and  
24 places as may be agreed upon by the person served and the Attorney  
25 General.

26           (6) No documentary material produced pursuant to a  
27 demand, or copies thereof, shall, unless otherwise ordered by a  
28 district court for good cause shown, be produced for inspection or

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1 copying by, nor shall the contents thereof be disclosed to, other  
 2 than an authorized employee of the Attorney General, without the  
 3 consent of the person who produced such material, except +  
 4 ~~PROVIDED,~~ that under such reasonable terms and conditions as the  
 5 Attorney General shall prescribe, the copies of such documentary  
 6 material shall be available for inspection and copying by the  
 7 person who produced such material or any duly authorized  
 8 representative of such person. The Attorney General or any  
 9 assistant attorney general may use such copies of documentary  
 10 material as he or she determines necessary in the enforcement of  
 11 ~~sections 59-1601 to 59-1622~~ the Consumer Protection Act, including  
 12 presentation before any court, except + ~~PROVIDED,~~ that any such  
 13 material which contains trade secrets shall not be presented except  
 14 with the approval of the court in which action is pending after  
 15 adequate notice to the person furnishing such material.

16 (7) At any time before the return date specified in the  
 17 demand, or within twenty days after the demand has been served,  
 18 whichever period is shorter, a petition to extend the return date  
 19 for or to modify or set aside a demand issued pursuant to  
 20 subsection (1) of this section, stating good cause, may be filed in  
 21 the district court for Lancaster County, or in such other county  
 22 where the parties reside. A petition by the person on whom the  
 23 demand is served, stating good cause, to require the Attorney  
 24 General or any person to perform any duty imposed by the provisions  
 25 of this section, and all other petitions in connection with a  
 26 demand, may be filed in the district court for Lancaster County, or  
 27 in the county where the parties reside.

28 (8) Whenever any person fails to comply with any civil

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1 investigative demand for documentary material duly served upon him  
 2 or her under this section, or whenever satisfactory copying or  
 3 reproduction of any such material cannot be done and such person  
 4 refuses to surrender such material, the Attorney General may file,  
 5 in the district court of the county in which such person resides,  
 6 is found, or transacts business, and serve upon such person a  
 7 petition for an order of such court for the enforcement of this  
 8 section, except that if such person transacts business in more than  
 9 one county such petition shall be filed in the county in which such  
 10 person maintains his or her principal place of business, or in such  
 11 other county as may be agreed upon by the parties to such petition.  
 12 Whenever any petition is filed in the district court of any county  
 13 under this section, such court shall have jurisdiction to hear and  
 14 determine the matter so presented and to enter such order as may be  
 15 required to carry into effect the provisions of this section.  
 16 Disobedience of any order entered under this section by any court  
 17 shall be punished as a contempt thereof.

18           Sec. 30.     Section 59-1614, Reissue Revised Statutes of  
 19 Nebraska, is amended to read:

20           59-1614.   Any person who violates section 59-1603 or  
 21 59-1604 or the terms of any injunction issued as provided in  
 22 ~~sections 59-1601 to 59-1622,~~ the Consumer Protection Act shall  
 23 forfeit and pay a civil penalty of not more than twenty-five  
 24 thousand dollars.

25           Any person who violates section 59-1602 shall pay a civil  
 26 penalty of not more than two thousand dollars for each violation,  
 27 except + ~~PROVIDED,~~ that such penalty shall not apply to any radio  
 28 or television broadcasting station which broadcasts, or to any

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1 publisher, printer, or distributor of any newspaper, magazine,  
 2 billboard, or other advertising medium who publishes, prints, or  
 3 distributes advertising in good faith without knowledge of its  
 4 false, deceptive, or misleading character and no such good faith  
 5 publication, printing, or distribution shall be considered a  
 6 violation of section 59-1602.

7 For the purpose of this section, the district court which  
 8 issues any injunction shall retain jurisdiction, and the cause  
 9 shall be continued, and in such cases the Attorney General acting  
 10 in the name of the state may petition for the recovery of civil  
 11 penalties.

12 With respect to violations of sections 59-1603 and  
 13 59-1604, the Attorney General, acting in the name of the state, may  
 14 seek recovery of such penalties in a civil action.

15 Sec. 31. Section 59-1615, Reissue Revised Statutes of  
 16 Nebraska, is amended to read:

17 59-1615. Upon petition by the Attorney General, the  
 18 court may, in its discretion, order the dissolution, or suspension  
 19 or forfeiture of franchise, of any corporation which ~~shall violate~~  
 20 violates section 59-1603 or 59-1604 or the terms of any injunction  
 21 issued as provided in ~~sections 59-1601 to 59-1622~~ the Consumer  
 22 Protection Act.

23 Sec. 32. Section 59-1616, Reissue Revised Statutes of  
 24 Nebraska, is amended to read:

25 59-1616. Personal service of any process in an action  
 26 under ~~sections 59-1601 to 59-1622~~ the Consumer Protection Act may  
 27 be made upon any person outside the state if such person has  
 28 engaged in conduct in violation of ~~sections 59-1601 to 59-1622~~ the

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1 act which has had impact in this state which ~~sections 59-1601 to~~  
 2 ~~59-1622 prohibit~~ the act prohibits.

3 Sec. 33. Section 59-1623, Reissue Revised Statutes of  
 4 Nebraska, is amended to read:

5 59-1623. Sections 59-1601 to 59-1622 and section 27 of  
 6 this act shall be known and ~~designated~~ may be cited as the Consumer  
 7 Protection Act.

8 Sec. 34. Section 59-1803, Revised Statutes Supplement,  
 9 2001, is amended to read:

10 59-1803. Issuance of a charitable gift annuity does not  
 11 constitute:

12 (1) Engaging in business as a trust company subject to  
 13 the Nebraska Trust Company Act;

14 (2) Engaging in the business of insurance subject to  
 15 Chapter 44;

16 (3) Engaging in an act in violation of sections 59-801 to  
 17 59-831 and section 11 of this act;

18 (4) Engaging in an act in violation of the Viatical  
 19 Settlements Act; or

20 (5) Engaging in an act in violation of the Uniform  
 21 Deceptive Trade Practices Act. Conduct other than issuance of a  
 22 charitable gift annuity, including the marketing of a charitable  
 23 gift annuity, is not exempt from application of the Uniform  
 24 Deceptive Trade Practices Act pursuant to this subdivision.

25 Sec. 35. Section 68-1035, Reissue Revised Statutes of  
 26 Nebraska, is amended to read:

27 68-1035. Actions taken pursuant to sections 68-1029 to  
 28 68-1036 shall not be subject to the Consumer Protection Act and

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1 sections 59-801 to ~~59-829~~ 59-831 and section 11 of this act. It is  
2 the intention of the Legislature that vendors and contracts  
3 complying with sections 68-1029 to 68-1036 shall be exempted from  
4 the application of federal antitrust laws. Nothing contained in  
5 sections 68-1029 to 68-1036 shall prohibit contracts between  
6 individual vendors and the Department of Health and Human Services  
7 Finance and Support.

8           Sec. 36. Original sections 59-806, 59-808 to 59-810,  
9 59-812, 59-815, 59-816, 59-819 to 59-822, 59-824, 59-826 to 59-831,  
10 59-1606 to 59-1611, 59-1614 to 59-1616, 59-1623, and 68-1035,  
11 Reissue Revised Statutes of Nebraska, section 59-823, Revised  
12 Statutes Supplement, 2000, and section 59-1803, Revised Statutes  
13 Supplement, 2001, are repealed.